

TENNESSEE BOARD FOR LICENSING CONTRACTORS LICENSE & BIDDING REQUIREMENTS - INFORMATION

The following information is compiled from laws, rules and regulations, as well as the past decisions made by the Board to offer as guidance. It is up to the awarding authority to review bids and make a determination to accept or reject a bid due to the contractor's failure to comply with the bidding law. Should the Board receive a complaint of where the law may have been violated, the full Board would review through the complaint filing process to determine any law violations. If it is determined a violation has occurred, the contractor may be penalized according to the civil penalties outlined in the law, rules and regulations. Citations with an order to "Cease and Desist" may be issued by the Board office for unlicensed activity. Inquires requesting opinions may be submitted, however, a formal opinion cannot be issued unless presented to the full Board at their regularly scheduled or special called meetings.

To ensure contractors are properly licensed with the appropriate license classification, monetary limit, current expiration date, and the exact name as licensed, you may request a copy of their license for evidence and check the Board's website at the "License Search" link at: <http://verify.tn.gov/>

Bid Envelope Listing (\$25,000 and Up)

For projects \$25,000 or more, T.C.A. §62-6-119 requires the **Prime**, (general) contractor to list their contractor license information on the outside of the bid envelope (*or electronic bid*), with the **Name** as licensed, **License Number**, **Expiration Date** and the **Classification** applying to the bid. In addition to the prime, the contractor license information must also be included for the **Electrical**, **Plumbing**, and **HVAC** contractors, unless the project is less than *\$25,000. Effective July 1, 2010, the amendment to Public Chapter 768 now requires the **Masonry** contractor to also be listed, unless the masonry portion is less than *\$100,000 (*including materials and labor*).

While it may not be required by the Board's current law, many awarding authorities may also require more information to be listed, such as the monetary limit. Therefore, it is very important to follow the bidding. Instructions and to supply the prime contractor with a copy of your license which may be obtained at: <http://verify.tn.gov/>

**License required for projects \$25,000 or more; masonry is \$100,000 or more.*

(Note: Public Chapter 801 deleted the requirement to be listed on the outside of the bid envelope implemented by the 2008 Public Chapter 792, to list Geothermal license information from the Tennessee Department of Environment and Conservation (TDEC). However, this did not delete the license requirement to obtain a TDEC license. This law may be re-implemented during the 2011 legislative session. See more information relative to the law changes at:

<http://tn.gov/commerce/boards/contractors/documents/MasonryLawNoticeWeb.pdf>

The law further states, "the failure of any bidder to comply with all of the provisions hereof shall automatically disqualify such bid." Therefore, if a bid is improperly submitted and not rejected, should a complaint come before the Board for this violation, disciplinary action may be taken.

See Rule 0680-1-.25 – Contractors must bid, contract and operate in the exact **name as licensed.*

Monetary Limit Designated on a Contractor's License

Please note, the prime contractor's license limit must cover the total cost (including materials and labor) of the project and contracts cannot be split to circumvent the law. See Rule 0680-1-.13. In addition, the subcontractor's (electrical, HVAC, plumbing, mechanical, *masonry) license must cover the entire portion of their work. For example, the prime contractor cannot supply the plumbing equipment as a means to ensure the plumber's portion is within their monetary limit. See Rule 0680-1-.13. There is a 10% bid tolerance. The contractor's license limit is determined by the Board and is based on both their financial statement and experience.

Contractor License Classification

The contractor must be licensed with the proper license classification to cover at least 60% of the project or have a commercial license, unless the work is for electrical, mechanical, plumbing, HVAC or *Masonry. See the outline of license classifications from our website at: <http://tn.gov/commerce/boards/contractors/documents/ClassificationOutlineWeb.pdf>

**Effective January 1, 2011, BC (commercial) or BC-9 (Masonry), will not cover masonry projects and contractors will be required to take the newly developed masonry exam to be implemented September 1, 2010. <http://tn.gov/commerce/boards/contractors/documents/MasonryLawNoticeWeb.pdf>*

Contractor's License Requirements

A contractor's license is required for **prime** contractors where the total cost is ***\$25,000 or more**, prior to offering a price or bid; and also by **subcontractors** performing **electrical, plumbing, HVAC, mechanical**; and effective January 1, 2011, **masonry subcontractors** where the total cost (including materials and labor) is ***\$100,000 or more**.

**License required for projects \$25,000 except for masonry (\$100,000)*

Bid Envelope Listing (Less than \$25,000)

If the amount of the subcontractor's portion is **less than \$25,000**, the law states in T.C.A. § 62-6-119, licensing information **MAY** be listed. Therefore, the Board for Licensing Contractors has not considered it a violation of law for failure to list the subcontractor's information, where this portion is less than \$25,000. *(Please note, some awarding authorities may add this as an additional requirement to their solicitation and request to list a "Name" and you would need to comply with their requirement in order for the bid to be considered by them.)*

Subcontractors Exempt from License Requirements

A subcontractor is defined as those bidding directly to a licensed prime (general) contractor and not with the owner. A contractor's license is NOT required by all subcontractors, **UNLESS**, the subcontractors are those performing: **electrical, mechanical, plumbing or HVAC work in excess of \$25,000, or masonry** (including materials and labor) **in excess of \$100,000**. Subcontractors typically exempt from the license requirements are those performing projects such as: painting, roofing, excavation, etc. where they are contracting with a contractor overseeing the project (prime) and not with the owner.

Violations

A contractor who contracts, offers to engage, bids or obtains a permit without the required license or proper classification and monetary limit, is in violation of T.C.A. §62-6-120. Therefore, would be ineligible to be awarded the project, **may not receive a license for six (6) months, cannot participate in any rebidding of the project, and subject to civil penalties**. Bidding requirements entail listing the license name, number, expiration date and the classification pertaining to bid, on the outside of the bid envelope. (Refer to T.C.A. §62-6-119.)

A prime contractor who lists a subcontractor not properly licensed as required, would not be allowed to be awarded the project and also in violation for accepting their bid.

Rule 0680-1-.24 states for the subcontractor to furnish evidence of their license information and it may be confirmed from our website at: <http://verify.tn.gov/>

The following are excerpts from the law, rules and regulations, as of 12/31/2009 (see our website for current law changes and updates effective July 1, 2010):

License Classification Requirement:

62-6-111. License and examination — Transfer of license —

(d) A contractor may bid on a contract requiring work in a classification or classifications other than the one in which the contractor is licensed if and only if the contractor has a **commercial** building contractor's license or if such contractor's license will permit the contractor to perform at least sixty percent (**60%**) of the bid amount or price of the work for the project being bid or priced. However, such contractor may not actually perform any work in excess of twenty-five thousand dollars (\$25,000) or in the case of a limited licensed electrician where the amount of work is less than twenty-five thousand dollars (\$25,000) in any classification unless the contractor has a license to perform work in such classification.

- Note: A Commercial (BC) contractor could not bid without listing a properly licensed subcontractor for: Electrical, Plumbing, HVAC, Mechanical, or Masonry.
- While many mechanical or electrical license classifications may not be required to be listed on the bid envelope, there remains a license requirement for subcontractors performing projects over \$25,000 such as: **Fire Sprinklers; Gas Piping; Boiler Construction; **Alarm Systems; Telephone Lines; Cabling; Fire Detection Systems, etc.

**See the classification outline for other agency license requirements at: <http://tn.gov/commerce/boards/contractors/documents/ClassificationOutlineWeb.pdf>

Listing on Outside of the Bid Envelope (see changes effective July 1, 2010)

62-6-119. Bid documents — Required disclosures by bidders —

(a) Any person or entity preparing plans, specifications or any other documentation for inclusion or consideration in an invitation to bid or comparable bid document shall include a copy of this chapter, at least by reference and a specific statement informing the invited bidder that it is necessary for such bidder to provide evidence of a license in the appropriate classification before such bid may be considered.

(b) Any person or entity involved in the preparation of the invitation to bid or comparable bid documents shall direct that the name, license number, expiration date thereof, and license classification of the contractors applying to bid for the prime contract and for the [masonry] {see Public Chapter 768}, electrical, plumbing, heating, ventilation, and air conditioning contracts, [and] {see Public Chapter 801} for each vertical closed loop geothermal heating and cooling project, the company name, Tennessee department of environment and conservation license number, classification (G, L or G,L) and the expiration date, appear on the outside of the envelope containing the bid except when the bid is in an amount less than twenty-five thousand dollars (\$25,000). When the bid is less than twenty-five thousand dollars (\$25,000), the name of the contractor only may appear on the outside of the envelope containing the bid, and upon opening the envelope, if such bid is in excess of twenty-five thousand dollars (\$25,000), the same shall automatically be disqualified. Only one (1) contractor in each classification may be listed. Prime contractor bidders who are to perform the electrical, plumbing, heating, ventilation and air conditioning or the geothermal heating and cooling must be so designated upon the outside of the envelope. Failure of any bidder to comply therewith shall void such bid and the envelope containing such bid shall not be opened or considered. It is the duty and responsibility of the awarding person or entity who received the envelope containing the bid to verify only the

completeness of the required licensure information prior to the opening of the envelope. Prior to the opening of the envelope, the names of all contractors listed thereon shall be read aloud at the official bid opening and incorporated into the bid. Prior to awarding a contract, the awarding person or entity and its authorized representatives shall verify the accuracy, correctness and completeness of the information required hereby.

The failure of any bidder to comply with all of the provisions hereof shall automatically disqualify such bid. However, bids administered by the Tennessee department of general services shall require that the information be furnished within the bid or bid document and need not appear on the envelope.

(c) **{See Public Chapter 801 for Electronic Bidding}** Any person or entity, public and private, failing to observe this section shall be penalized in the same manner as any person under § [62-6-120](#) who accepts a bid from a person who is not licensed in accordance with the provisions of this chapter.

62-6-120. Penalties

(a)(1) Any person, firm or corporation who engages or offers to engage in contracting without a license as required by § [62-6-103](#), or who violates the terms and conditions of any license or renewal granted by the board pursuant to this chapter, commits a Class A misdemeanor. The penalties imposed by this subdivision shall not apply to a person who engages a contractor without a license for the purpose of constructing a residence for the use of such person.

(2) Any person, firm or corporation who engages or offers to engage in contracting without a license as required by § [62-6-103](#) is ineligible to receive such license until six (6) months after a determination by the board that a violation has occurred. Additionally, no such person, firm or corporation shall be awarded any contract for the project upon which it engaged in contracting without a license or permitted to participate in any rebidding of such project.

(b) Any person, firm or corporation who accepts a bid in excess of twenty-five thousand dollars (\$25,000) from a contractor who is not licensed, with appropriate classifications and sufficient monetary limitations, or in the case of a limited licensed electrician where the amount is less than twenty-five thousand dollars (\$25,000), in accordance with the provisions of this chapter, commits a Class A misdemeanor.

(c) (1) No official of the state other than of the department of transportation shall issue a permit or contract work order to any applicant therefore, to engage in contracting, unless the applicant holds a license as a contractor with appropriate classifications and sufficient monetary limitations, in accordance with the provisions of this chapter.

(2) Any official violating this subsection (c) commits a Class A misdemeanor.

(d) Any individual or entity that fails to pay a civil penalty assessed by the board pursuant to the terms of a final order entered by the board after a contested case hearing against the individual or entity pursuant to the Uniform Administrative Procedures Act, compiled in title [4](#), chapter 5, may be referred to a collection agency.

(e) Failure to pay any civil penalty assessed by the board shall subject the individual or entity to suspension or revocation of a license issued pursuant to this part.

0680-01-.13 MONETARY LIMITATIONS.

Subject to such tolerance, no contractor shall engage, or offer to engage, in any project of which the cost (including all material and labor furnished by or through another source other than the owner) would exceed the monetary limitation placed on his license. If a contractor holds a license with more than one classification with different monetary limit, the monetary limits shall not be combined to bid a project. There is a 10% bid tolerance.

0680-01-.18 UNLAWFUL BIDDING.

Unlawful Contracting. No person, firm or corporation who engages or offers to engage in contracting” (as defined in T.C.A. § 62-6-102) without a valid contractor’s license, or in violation of the terms and conditions of such license, shall be awarded any contract for the project, upon which it engaged in contracting without a license, or permitted to participate in any re-bidding of the project.

0680-01-.24 BIDDING PROCEDURES.

(1) Pursuant to T.C.A. §§ 62-6-119(b), electrical, plumbing, heating ventilation and air conditioning subcontractors bidding to a prime contractor shall furnish evidence of a license with appropriate classification and monetary limit, regardless of how the bid is transmitted; provided however failure to comply with this rule shall not require nonconsideration of the LICENSING subcontractor’s bid if appropriately licensed, but said subcontractor shall be subject to discipline by the Board. (2) Any prime contractor submitting a bid pursuant to T.C.A. § 62-6-119(b) shall list only one electrical contractor, one plumbing contractor, and one heating, ventilation air conditioning contractor with appropriate classification and monetary limit or the bid shall not be considered. Award of the subcontract to one not listed on the base bid envelope in violation of T.C.A. § 62-6-119 will be subject to review and disciplinary action by the Board.

0680-01-.25 CONTRACTING IN CORRECT NAME.

Upon receiving certificate of licensure from this Board, the licensee has an affirmative responsibility to enter into contracts and operate its related contracting business under the name in which it is licensed in order to notify and prevent confusion on the part of the public at large of an entity’s licensure status. Contracting in a name different than that in which an entity is licensed by this Board is considered a violation of this chapter, and will be subject to discipline accordingly. Authority:

Most Common Reasons for Bid Rejection

The following are the most frequent inquiries we receive which end up as law violations and provide a reason for rejection or protest by another bidder:

- Bid in name other than as licensed
- Owner of the licensed entity bid in the name of a separate unlicensed subsidiary business
- Bid as a corporation or LLC and licensed as a sole proprietor
- Prime contractor listed a subcontractor’s name other than as licensed
- Prime contractor listed an improperly or unlicensed subcontractor
- Bid in excess of their contractor’s license monetary limit over 10%
- Bid prior to the license getting renewed (must wait until license is approved for issuance)
- Bid a 3 to 5 year contract with a total cost over their monetary limit
- Bid over limit by not including profit or the cost of land in the total contract

To review the Statute:

<http://www.michie.com/tennessee/>

To review the Rules:

<http://www.state.tn.us/sos/rules/0680/0680.htm>

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